

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3542-02  
Bill No.: SB 1001  
Subject: Health Department; Health, public; Hospitals; Licenses-Miscellaneous;  
Physicians  
Type: Original  
Date: March 2, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(Unknown, greater than \$122,000)	(Unknown, greater than \$122,000)	(Unknown, greater than \$122,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown, greater than \$122,000)</b>	<b>(Unknown, greater than \$122,000)</b>	<b>(Unknown, greater than \$122,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Missouri Public Health Services Fund	\$15,258	\$65,673	\$70,747
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$15,258</b>	<b>\$65,673</b>	<b>\$70,747</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Missouri Health Facilities Review Committee**, the **Department of Economic Development - Division of Professional Registration**, and the **Department of Social Services** assume this proposal does not fiscally impact their agencies.

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Health and Senior Services (DOH)** assume this proposal will result in annual inspection and licensing of all end-stage renal disease dialysis facilities. Currently only 33% of these facilities are inspected each year under the DOH contract with the Centers for Medicare and Medicaid Services. This will result in more inspections each year and a need for additional staff to conduct the inspections and to provide clerical support.

DOH states there are currently 117 End Stage Renal Dialysis (ESRD) facilities. One-third of these, or approximately 39, are inspected each year in compliance with the DOH contract with CMS. Required licensing would result in the need for approximately 78 additional inspections each year. Currently approximately 2.5 professional staff and .35 support staff in the Health

ASSUMPTION (continued)

Facility Regulation Unit conduct the 39 inspections and provide administrative support. These staff occasionally conduct surveys or provide support to other programs in the unit.

Additionally, DOH anticipates that inspecting each facility every year would result in less time being needed to complete each inspection, as compared to the time currently required to do an inspection every three years. Therefore, DOH estimates that the following additional staff will be needed in order to complete all activities necessary for annual licensing of all ESRDs: two Health Facilities Consultant Nurses, one Health Facilities Consultant I, one Health Program Representative I/II, and one Office Support Assistant.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the above DOH positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Revenues: DOH states fee amounts would be set by regulation, up to \$2,500. This estimate of revenues is based on the following calculations (No amount is included for fines because DOH believes the amount to be minimal.):

FY 2005

Suggested Fee x Est. # Annually = Est. Rev. \$

Initial license: \$2,500 x 5 = \$ 12,500

Relocation: \$2,000 x 5 = \$ 10,000

Annual Renewal \$2,500 x 117 = \$292,500

Change of Ownership \$2,500 x 2 = \$ 5,000

TOTAL EST. REVENUE – FY 2005 \$320,000 (10 months = \$266,667)

FY 2006

Suggested Fee x Est. # Annually = Est. Rev. \$

Initial license: \$2,500 x 5 = \$ 12,500

Relocation: \$2,000 x 5 = \$ 10,000

Annual Renewal \$2,500 x 122 = \$305,000

Change of Ownership \$2,500 x 2 = \$ 5,000

TOTAL EST. REVENUE – FY 2006 \$332,500

ASSUMPTION (continued)

FY 2007

Suggested Fee x Est. # Annually = Est. Rev. \$

Initial license: \$2,500 x 5 = \$ 12,500

Relocation: \$2,000 x 5 = \$ 10,000

Annual Renewal \$2,500 x 127 = \$317,500

Change of Ownership \$2,500 x 2 = \$ 5,000

TOTAL EST. REVENUE – FY 2007 \$345,000

Officials from the **Office of the Secretary of State (SOS)** state this proposal creates licensure requirements for end stage renal disease dialysis facilities. The DOH may promulgate rules to enact this legislation. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Social Services could require as many as 12 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$738 in FY 05.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Corrections (DOC)** state currently 15 offenders are on dialysis and 5 more are anticipated to begin this process shortly. These offenders receive dialysis on site at Moberly Correctional Center. Many of DOC facilities and/or their doctors do not have a qualifying hospital within a 20-minute drive. DOC would have to outcount (leave the premises) the offenders for dialysis to meet the requirements of the law.

DOC states an outcount will last 6 hours and will require 2 officers to accompany the offender. This treatment must be done 3 times per week. Officer-hours will exceed 37,000 hours per year as per the following calculation: (20 offenders x 6 hours x 3 times per week x 2 officers x 52 weeks per year = 37,440 total hours necessary per year to cover outcounts for dialysis patients)

DOC states an FTE has 2,080 hours per year allotted to them for working 40 hours per each of

the 52 weeks in the year. It is estimated that officers are actually available for work on their post ASSUMPTION (continued)

for 32 hours (out of 40) per week due to time allowed for annual leave, sick leave, holiday time-off and required training. This time available computes as follows: (32 hours available X 52 weeks per year = 1,664 hours per officer per year).

37,440 divided by 1,664 = 22.5 officers needed annually. Transportation costs are unknown but with elevated gasoline prices and the additional wear and tear on already over-worked state vehicles, the cost for officers and transportation will easily exceed \$100,000 annually.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, the fiscal impact for the DOC, due to both supervision commitments for the penalty provisions and expenditures for outcounts for dialysis, has the potential to be a significant amount exceeding \$100,000 annually.

Officials from the **State Treasurer's Office (STO)** assume this proposal will result in a loss of interest to General Revenue of \$22,000 (\$18,333 in FY 05) annually since funds from the Missouri Public Health Service Fund will not be transferred and placed in General Revenue at the end of the biennium. **Oversight** assumes there will be income to the Missouri Public Health Services Fund of \$22,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>GENERAL REVENUE</b>			
<u>Costs - Department of Corrections</u>			
Supervision and expense for outcounts	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)
<u>Loss-Interest</u>	(\$22,000)	(\$22,000)	(\$22,000)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b>(Unknown, greater than \$122,000)</b>	<b>(Unknown, greater than \$122,000)</b>	<b>(Unknown, greater than \$122,000)</b>
<b>MISSOURI PUBLIC HEALTH SERVICES FUND</b>			
<u>Income - Department of Health and Senior Services</u>			
Fees	\$266,667	\$332,500	\$345,000
Interest	\$18,333	\$22,000	\$22,000
<u>Total Income - Department of Health and Senior Services</u>	\$285,000	\$354,500	\$367,000
<u>Costs - Department of Health and Senior Services</u>			
Personal Services (5 FTE)	(\$142,526)	(\$175,307)	(\$179,690)
Fringe benefits	(\$59,006)	(\$72,577)	(\$74,392)
Expense and Equipment	(\$68,210)	(\$40,943)	(\$42,171)
<u>Total Costs - Department of Health and Senior Services</u>	(\$269,742)	(\$288,827)	(\$296,253)
<b>ESTIMATED NET EFFECT ON MISSOURI PUBLIC HEALTH SERVICES FUND</b>	<b>\$15,258</b>	<b>\$65,673</b>	<b>\$70,747</b>

FISCAL IMPACT - Local Government

FY 2005  
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Any end-stage renal disease dialysis facility which is a small business would have to pay an annual license fee of up to \$2,500. There could also be potential costs of complying with new statutes and regulations, if not already compliant.

DESCRIPTION

This proposal regulates the treatment of end stage renal disease.

SECTION 197.800 - This section provides definitions for terms associated with end stage renal disease dialysis facilities.

SECTION 197.802 - This section prohibits any person or governmental unit from establishing, conducting, or maintaining an end stage renal disease dialysis facility without a license issued by the Department of Health and Senior Services.

SECTION 197.804 - The Department shall provide application forms for licensure. The Department may require a facility to submit evidence of the ability to comply with reasonable standards, rules, and regulations. All applications must include an annual license fee, which will not exceed \$2,500. These fees will be deposited in the Public Health Services Fund to be used solely for licensing and training activities.

SECTION 197.806 - The Department shall issue a license to a facility if they have met the requirements in Section 197.804 and can affirmatively show that: (1) The medical staff consists of licensed physicians; (2) Dialysis treatments are performed as specified in this section; (3) Continuous physician and nursing services are provided in the facility; and (4) Adequate and complete medical records for patients are maintained. Licenses shall only be issued for the named persons and premises and shall be valid for one year.

SECTION 197.808 - This section allows the Department to deny, suspend or revoke a license in any of the specified circumstances.

SECTION 197.810 - Administrative hearing procedures shall apply to any person aggrieved by a final decision of the Department relating to the status of their license.

DESCRIPTION (continued)

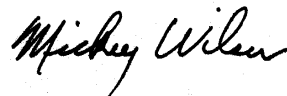
SECTION 197.812 - The Department may adopt rules, regulations, and standards for the types of services provided pursuant to Sections 197.800 to 197.816 and to assure quality patient care and safety. The Department may inspect and investigate these facilities as it deems necessary.

SECTION 197.814 - Any person operating, conducting, managing or establishing an end stage renal disease dialysis facility without a valid license will be guilty of a Class A misdemeanor and subject to a fine of not more than \$500. Each day the violation continues shall be deemed a separate offense. The Attorney General may request an injunction against the violator. Any person operating, conducting, managing or establishing a facility that uses or employs the words "State", "Missouri", "State of Missouri", "Department of Health and Senior Services", "MO", or any emblem of the state or Department to give a false impression of involvement shall be subject to a fine of \$100 per day for each day the advertisement or statement appears.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Missouri Health Facilities Review Committee  
Department of Economic Development -  
Division of Professional Registration  
Department of Social Services  
Office of Attorney General  
Department of Health and Senior Services  
Secretary of State  
State Treasurer's Office  
Department of Corrections



Mickey Wilson, CPA  
Director  
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